

## Message Text

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PAGE 01 LAGOS 04663 01 OF 03 131619Z  
ACTION AF-10

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10  
L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 ICA-11  
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EUR-12 /107 W  
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P R 131402Z APR 78  
FM AMEMBASSY LAGOS  
TO SECSTATE WASHDC PRIORITY 7865  
INFO USDOC WASHDC  
AMEMBASSY COTONOU  
AMEMBASSY NIAMEY  
AMEMBASSY YAOUNDE  
AMEMBASSY ND  
AMCONSUL KADUNA  
AMCONSUL IBADAN

LIMITED OFFICIAL USE SECTION 1 OF 3 LAGOS 4663

E.O. 11652: N/A  
TAGS: ECON, EINV, PDEV, ENRG, NI  
SUBJECT: NIGERIA NATIONALIZES ALL LAND

REF: 77 LAGOS 9500 AND PREVIOUS

SUMMARY: ON MARCH 29, 1978, NIGERIA EFFECTIVELY AND UNEXPECTEDLY NATIONALIZED ALL LAND AND VESTED IT IN THE MILITARY GOVERNORS OF THE 19 STATES WHO WILL MANAGE THE LAND THROUGH STATE COMMISSIONERS, LAND ALLOCATION COMMITTEES AND LOCAL GOVERNMENT COUNCILS. PROVISIONS OF THE NATIONALIZATION ARE SET OUT IN THE LAND USE DECREE OF 1978, WHICH DOES NOT USE THE TERM NATIONALIZATION. THOSE WITH DEVELOPED URBAN LAND WILL BE ALLOWED CONTINUED USE OF THE PROPERTY. RIGHTS TO NON-URBAN LAND WILL BE LIMITED. HENCEFORTH, THOSE WHO WANT TO USE PROPERTY MUST PROVE AN EXISTING CUSTOMARY OR STATUTORY RIGHT OF OCCUPANCY OR OBTAIN  
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PAGE 02 LAGOS 04663 01 OF 03 131619Z

A NEW RIGHT OF OCCUPANCY UNDER THE AUTHORITY OF THE MILITARY GOVERNOR. THE CURRENT PROPERTY USER MUST PAY A FEE AND A RENT. THE NEW PROPERTY USER MUST MAKE AN ADDITIONAL PAYMENT FOR THE VALUE OF ANY UNEXHAUSTED IMPROVEMENTS ON THE LAND. THE MILITARY GOVERNOR MUST APPROVE ALL TRANSFERS AND USES OF PROPERTY AND CAN REACQUIRE THE LAND FOR SEVERAL REASONS INCLUDING BREACH OF CONTRACT AND OVERRIDING PUBLIC INTEREST.

ALL THE EFFECTS OF THIS STRUCTURAL CHANGE IN THE LAND TENURE SYSTEM WILL NOT BE FELT OR KNOWN FOR SOME TIME. AN IMMEDIATE IMPACT ON U.S. BUSINESS WILL BE GREATLY INCREASED DIFFICULTY FOR OIL COMPANIES IN ACQUIRING SURFACE RIGHTS TO DRILLING LOCATIONS. THE OBJECTIVE OF THE DECREE IS TO SPEED UP DEVELOPMENT BY MAKING LAND ACQUISITION EASIER, BUT IT MAY HINDER DEVELOPMENT SINCE LAND WILL NOT NECESSARILY BE USED FOR ITS HIGHEST VALUED USE. THE DECREE IS ALSO A POLITICAL ISSUE SINCE IT SPLITS THE COUNTRY ON NORTH/SOUTH LINES AND IN THE SOUTH SHIFTS LAND CONTROL, THE BASIS OF WEALTH FOR THE OLD ARISTOCRACY, FROM TRADITIONAL RULERS AND THE URBAN MIDDLE CLASS TO STATE AND LOCAL GOVERNMENTS. END SUMMARY.

1. ON MARCH 29, HEAD OF STATE LT. GENERAL OLUSEGUN OBASANJO ANNOUNCED THE EFFECTIVE NATIONALIZATION OF ALL LAND IN NIGERIA. THE MEASURE WAS A SHOCK SINCE THERE WAS LITTLE OR NO WARNING OF THIS BOLD STRUCTURAL CHANGE. MANY HAD EXPECTED THAT THE LAND USE PANEL (REFTELS), WHICH HAS BEEN STUDYING THE ISSUE FOR OVER A YEAR, WOULD FIRST PUBLISH A WHITE PAPER THEREBY OPENING THE MATTER TO PUBLIC DEBATE. THE FOLLOWING PARAS OUTLINE EMBASSY UNDERSTANDING OF THE COMPLEX DECREE, WHICH WILL UNDOUBTEDLY CAUSE YEARS OF DISPUTE.

2. PROVISIONS OF THE DECREE - PURPOSE AND IMPLEMENTATION:  
UNDER NEW LAND USE DECREE OF 1978, ALL LAND IS VESTED IN THE LIMITED OFFICIAL USE

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PAGE 03 LAGOS 04663 01 OF 03 131619Z

MILITARY GOVERNORS (MG), WHO HOLD THE LAND IN TRUST FOR THE NIGERIAN PEOPLE. THE MG WILL DIRECTLY CONTROL WHAT HE DESIGNATES TO BE URBAN LAND, WHILE LOCAL GOVERNMENT (LG) WILL CONTROL ALL OTHER LAND. THE MG WILL APPOINT A LAND USE AND ALLOCATION COMMITTEE TO ADVISE HIM ON MANAGEMENT OF THE LAND AND THE RESETTLEMENT OF PERSONS WHO LOSE RIGHTS OF OCCUPANCY AND TO 'DETERMINE' DISPUTES AS TO AMOUNT OF COMPENSATION. HE MAY ALSO DELEGATE HIS POWER TO A STATE COMMISSIONER. EACH LG WILL ESTABLISH A LAND ALLOCATION ADVISORY COMMITTEE. THE DECREE DOES NOT APPLY TO LAND HELD BY THE FEDERAL GOVERNMENT, ITS AGENCIES OR ITS PARASTATALS.

3. EFFECTS ON EXISTING PROPERTY RIGHTS: DEVELOPED LAND (I.E., WITH ANY PHYSICAL IMPROVEMENT IN THE NATURE OF ROAD DEVELOPMENT, WATER, ELECTRICITY, DRAINAGE, BUILDING, OR STRUCTURE) IN URBAN AREAS WILL CONTINUE TO BE HELD BY CURRENT OCCUPANTS. HOWEVER, INSTEAD OF OWNING THE LAND THEY WILL ONLY HAVE A RIGHT TO USE THE LAND CALLED A STATUTORY RIGHT OF OCCUPANCY. "CONFIRMATION OF A STATUTORY

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PAGE 01 LAGOS 04663 02 OF 03 131622Z

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AMEMBASSY COTONOU

AMEMBASSY NIAMEY 5471

AMEMBASSY YAOUNDE

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LIMITED OFFICIAL USE SECTION 2 OF 3 LAGOS 4663

RIGHT OF OCCUPANCY WILL BE SUBJECT TO THE APPROVAL OF THE  
MG. ANY MORTGAGES ON SUCH LAND WILL REMAIN IN EFFECT.  
ON UNDEVELOPED URBAN LAND, THE HOLDER WILL BE GIVEN A  
STATUTORY RIGHT OF OCCUPANCY TO ONE HALF HECTARE; ANY  
LAND IN EXCESS OF ONE HALF HECTARE WILL BE TAKEN OVER BY THE MG.  
THERE ARE NO PROVISIONS FOR COMPENSATION. NON-URBAN LAND  
WHICH IS DEVELOPED OR BEING USED FOR AGRICULTURAL PURPOSES,  
INCLUDING THAT LYING FALLOW, WILL CONTINUE TO BE HELD BY THE  
CURRENT OCCUPANT. UNDER THE DECREE THE LG WILL CONFIRM THE NON-  
URBAN OCCUPANTS CUSTOMARY RIGHT OF OCCUPANCY.

4. RIGHTS AND POWERS NEW STATUTORY RIGHTS OF OCCUPANCY  
WILL BE FOR A DEFINITE (UNDEFINED) TERM AND MAY BE GRANTED SUBJECT  
TO A CONTRACT BETWEEN THE HOLDER AND THE MG. THE MG MAY  
ISSUE A CERTIFICATE OF OCCUPANCY TO ANYONE ENTITLED TO A  
STATUTORY OR CUSTOMARY RIGHT OF OCCUPANCY. THE CERTIFICATE  
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PAGE 02 LAGOS 04663 02 OF 03 131622Z

REQUIRES PAYMENT OF RENT AND A ONE TIME PAYMENT FOR ANY  
UNEXHAUSTED IMPROVEMENTS OF THE LAND. RENT SHOULD REFLECT PREVIOUS

PAYMENTS FOR SIMILAR LAND BUT THE MG MAY GRANT RIGHTS OF OCCUPANCY AT A REDUCED RENT OR FREE OF RENT IF IT IS DEEMED TO BE IN THE PUBLIC INTEREST. THE OCCUPANT HAS EXCLUSIVE RIGHTS TO THE USE OF THE LAND AGAINST ALL PEOPLE EXCEPT THE MG AND, WITH THE MG'S PRIOR CONSENT, MAY MORTGAGE, ASSIGN OR TRANSFER IMPROVEMENTS ON THE LAND. THE OCCUPANT WILL INCUR A PENAL RENT AND/OR LOSE THE RIGHT OF OCCUPANCY IF HE DOES NOT FIRST OBTAIN THE APPROVAL OF THE MG FOR ANY CHANGE IN THE USE OF THE PROPERTY OR FOR ITS TRANSFER TO ANOTHER. THE MG MAY REVOKE A RIGHT OF OCCUPANCY AT ANY TIME FOR OVERRIDING PUBLIC INTEREST, I.E., REQUIREMENT OF THE LAND BY LOCAL STATE OR FEDERAL GOVERNMENT, FOR MINING PURPOSES OR OIL PIPELINES, FOR THE EXTRACTION OF BUILDING MATERIALS SUCH AS STONE, GRAVEL, CLAY OR SAND, FOR SANITARY IMPROVEMENTS AND EDUCATIONAL OR OTHER SERVICES, OR IN CONNECTION WITH ECONOMIC, INDUSTRIAL OR AGRICULTURAL DEVELOPMENT.

5. APPLICABLE LAW: ACCORDING TO THE LAND USE DECREE OF 1978, IT WILL HAVE EFFECT NOTWITHSTANDING ANYTHING TO THE CONTRARY IN ANY LAW INCLUDING THE CONSTITUTION OF THE FEDERATION. (DRAFT CONSTITUTION GUARANTEES PROPERTY RIGHTS AND COMPENSATION.) NO COURT SHALL ENQUIRE INTO THE VESTING OF LAND IN THE MG'S OR INTO COMPENSATION PAID UNDER THIS DECREE. THE NATIONAL COUNCIL OF STATES MAY MAKE REGULATIONS FOR THE PURPOSE OF CARRYING THIS DECREE INTO EFFECT.

6. COMMENT: THE COMMENT OF AN AMERICAN BANKER IS MOST APPROPRIATE: "IT WILL TAKE A LONG TIME TO SORT OUT THE EFFECTS OF THIS DECREE. LAND RIGHTS ARE FUNDAMENTAL TO THE ORGANIZATION OF A SOCIETY AND ITS ECONOMIC SYSTEM. LIMITED OFFICIAL USE

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PAGE 03 LAGOS 04663 02 OF 03 131622Z

ANY MAJOR CHANGE SUCH AS THIS ONE WILL HAVE MANY UNINTENDED AND UNIMAGINED EFFECTS. IN AN ATTEMPT TO REDUCE THIS UNCERTAINTY, THOUSANDS OF NIGERIANS ARE LINING UP AT LAND OFFICES TO REGISTER THEIR EXISTING RIGHTS.

7. ONE OF THE MOST IMMEDIATE EFFECTS ON AMERICAN INTERESTS IS THAT THE U.S. OIL INDUSTRY, WITH AN ESTIMATED \$350 MILLION INVESTED IN NIGERIA, FACES INCREASED DIFFICULTY AS IT ATTEMPTS TO ACQUIRE SURFACE RIGHTS TO LAND FOR EXPLORATION AND DEVELOPMENT. AN EXECUTIVE OF ONE LARGE AMERICAN OIL COMPANY SAID, IN THE WORST INSTANCE, THIS COULD CAUSE US EXTREMELY SERIOUS PROBLEMS. HE EXPLAINED THAT UNDER ITS STEPPED-UP INVESTMENT PLAN, THE COMPANY PLANS TO ACQUIRE CONSIDERABLE SURFACE RIGHTS FOR DRILLING LOCATIONS BUT THE PEOPLE FROM WHOM IT WANTS TO ACQUIRE RIGHTS DO NOT UNDERSTAND THE LAND USE DECREE AND PROBABLY WILL NOT ACCEPT IT. HE HOPED THAT THE PERIOD OF CONFUSION

OVER PROPERTY RIGHTS WOULD NOT EXTEND INTO THE BEGINNING OF THE CIVILIAN REGIME.

8. IT REMAINS TO BE SEEN WHETHER STATE OWNERSHIP AND ALLOCATION OF LAND USE WILL STIMULATE DEVELOPMENT, WHICH IS THE CENTRAL OBJECTIVE OF THE DECREE. A PARTNER IN A LOCAL BRANCH OF A LARGE AMERICAN ACCOUNTING FIRM AND THE OIL COMPANY EXECUTIVE SUGGESTED THAT THE DECREE OF ITSELF WOULD NOT HINDER LONG TERM FOREIGN INVESTMENT. THE ACCOUNTANT FELT THAT FOREIGN COMPANIES MAY FIND THE GOVERNMENT ALLOCATION OF LAND USE MORE 'GENUINE' THAN THE SALE BY A PRIVATE

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PAGE 01 LAGOS 04663 03 OF 03 131606Z  
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FM AMEMBASSY LAGOS  
TO SECSTATE WASHDC PRIORITY 7867  
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AMEMBASSY COTONOU  
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LIMITED OFFICIAL USE SECTION 3 OF 3 LAGOS 4663

INDIVIDUAL. UNDER THE SYSTEM WHICH EXISTED UNTIL MARCH 1978, TITLE TO A PIECE OF LAND WAS OFTEN DISPUTED, WITH SEVERAL INDIVIDUALS, FAMILIES OR COMMUNITIES CLAIMING OWNERSHIP UNDER CUSTOMARY LAW. IN CONTRAST TO THE OPTIMISTIC ASSUMPTION ABOUT FOREIGN INVESTMENT PLANS IS THE FACT THAT THE DECREE WILL ADD ANOTHER ROUND OF GOVERNMENT APPROVALS NEEDED BEFORE STARTING ANY PROJECT. DESPITE THE HIGH PRICE OF LAND UNDER THE OLD SYSTEM, THE POTENTIAL INVESTOR COULD ALWAYS FIND SOMEONE WILLING TO PART WITH IT FOR A PRICE. UNDER THE NEW SYSTEM, THE

SUPPLIERS OF LAND COULD DROP TO 19 MILITARY GOVERNORS, ALTHOUGH THIS IS UNCLEAR, THE POTENTIAL INVESTOR MAY NEED TO ADOPT THE CRITERIA SET BY ONE OF THEM FOR ALLOCATION AND USE. THIS COULD BE THE MOST IMPORTANT EFFECT ON DEVELOPMENT. UNDER THE DECREE, LAND WILL NOT NECESSARILY BE ALLOCATED TO THE HIGHEST VALUED USE AS MEASURED BY THE MARKET. SUCH AN LIMITED OFFICIAL USE

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PAGE 02 LAGOS 04663 03 OF 03 131606Z

ALLOCATION WAS APPROXIMATED UNDER THE PREVIOUS SYSTEM, IF SOMEWHAT CRUDELY, DUE TO THE LARGE NUMBER OF SELLERS.

9. AS WITH ANY MEASURE WHICH STRIKES AT THE PURSE, THE DECREE SWIFTLY PRODUCED A GRDAT NUMBER OF ANGUISHED OUT- CRIES. IT STRIKES AT THE SOUTH, WHERE TRADITIONAL LAND TENURE SYSTEMS HAD NEARLY EVOLVED INTO A SYSTEM OF PRIVATE OWNERSHIP OF PROPERTY. THE MEASURE DOES LITTLE DAMAGE TO THE NORTH, WHERE A SYSTEM SIMILAR TO THE DECREE HAS BEDN IN EFFECT SINCE COLONIAL DAYS. THE YORUBA-ORIENTED AND IBADAN-BASED NIGERIAN TRIBUNE CLAIMED THAT THE LAND USE DECREE WILL BE UNCONSTITUTIONAL WHEN THE PROPOSED CONSITUION COMES INTO EFFECT LATE IN 1979 AND CALLED IT '.....THE MOST EXPLOSIVE LEGISLATION EVER ENACTED IN THIS COUNTRY.' THE EDITORIALIST WENT ON TO WRITE, 'IT IS A BAD LAW, MORALLY AND LEGALLY. IT SHOULD BE REPEALED.' A MIDDLE LEVEL YORUBA SUPPORTER OF PRESIDENTIAL ASPIRANT CHIEF AWOLOWO SAID THAT THEIR POLITICAL GROUPING WAS STRNOUSLY OPPOSED TO THE LAND USE DECREE.

10. OPPOSITION WITHIN THE SOUTH COULD COME FROM ALMOST ALL LEVELS OF SOCIETY SINCE EVEN POORER NIGERIANS IN THE SOUTH HAVE INTERESTS IN LAND EITHER THROUGH INDIVIDUAL, FAMILY OR COMMUNITY HOLDINGS. TWO OF THE MOST IMPORTANT GROUPS IN OPPOSITION WILL BE THE TRADITIONAL RULERS AND THE URBAN MIDDLE CLASS. LAND OWNERSHIP ALLOCATION WAS A MAINSTAY OF THE FORMER, WHILE MANY IN THE URBAN MIDDLE CLASS MAY FEAR THAT SAVINGS INVESTED IN LAND FOR DEVELOPMENT MAY BE CONFISCATED. THE TRANSFER OF WEALTH FROM PRIVATE HOLDERS SHOULD PLEASE FINANCIALLY STRAPPED STATE AND LOCAL GOVERNMENTS. A NATIONAL NESPAPER REPORTED THAT TRADE UNIONISTS WERE IN SUPPORT OF THE MEASURE SINCE THEY COULD NOT AFFORD TO BUY LAND UNDER THE LIMITED OFFICIAL USE

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PAGE 03 LAGOS 04663 03 OF 03 131606Z

OLD SYSTEM AND COULD BE ALLOCATED FREE LAND UNDER THE NEW DECREE. THE DEMAND FOR LAND AT THAT PRICE ALWAYS EXCDEEDS THE SUPPLY, WHICH IS A PERFECT ARRANGEMENT FOR THE PAYMENT OF

BRIBES.

11. THE DECREE IS SO RADICAL AND VAGUE ON SUCH KEY POINTS AS COMPENSATION, RENT AND THE MECHANICS OF THE MARKET IN LAND RIGHTS (OR ON WHETHER THERE WILL EVEN BE A MARKET IN LAND RIGHTS) THAT IT IS IMPOSSIBLE TO ASSESS ITS FULL IMPACT AT THIS STAGE. GOVERNMENT PRACTICE AND COURT DECISIONS COULD EMASCULATE THE DECREE. MILITARY GOVERNORS AND LOCAL GOVERNMENTS COULD BECOME TRUE LAND CZARS, WHICH IS HOW THE DECREE HAS BEEN INTERPRETED INITIALLY, OR THEY COULD BE NO MORE THAN ZONING AUTHORITIES, LEAVING THE INITIATIVE AND THUS THE MARKET TO LAND HOLDERS WHILE EXERCISING A VETO OVER UNDESIRABLE DEVELOPMENT.

12. WE WILL PROVIDE ANALYSIS OF POLITICAL IMPLICATIONS IN SEPTEL. COPIES OF THE DECREE ARE BEING POUCHED VIA AIRGRAM.  
WEYMAN

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## Message Attributes

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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LAND, NATIONALIZATION  
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**Copy:** SINGLE  
**Draft Date:** 13 apr 1978  
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**Decaption Note:**  
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**Disposition Comment:** 25 YEAR REVIEW  
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**Subject:** NIGERIA NATIONALIZES ALL LAND  
**TAGS:** ECON, EINV, PDEV, ENRG, NI  
**To:** STATE  
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